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October 26, 2014

VIA ECF AND FACSIMILE

Honorable Paul G. Gardephe
Thurgood Marshall United States Courthouse
40 Foley Square, Chambers 2204
New York, New York 10007-1312

Re: Lockheed Martin Corporation, et al. v. MTA, et al.
Nos. 09 CV 4077 and 09 CV 6033 (PGG) (GWG)

Dear Judge Gardephe:

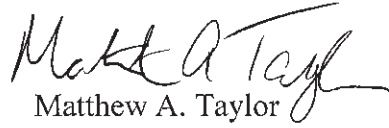
Our firm represents Plaintiff Lockheed Martin Corporation ("Lockheed Martin") in the above referenced action. We have informed Defendants MTA Capital Construction Company and Metropolitan Transportation Authority ("MTA") that we will not be examining ten (10) MTA witnesses who testified by affidavit. Today we received a letter from counsel for MTA stating that two (2) of its witnesses who have testified by affidavit, Terrence Fetters and Linda Martinez, will be called by MTA to testify as live witnesses during the MTA's case-in-chief.

MTA's intention to call live Mr. Fetters and Ms. Martinez contravenes the Court's individual rules for non-jury trials and the Order of April 17, 2014 that the Court will not hear direct testimony from fact or expert witnesses. (Rule 10.C.iii; ECF No. 171). Lockheed Martin opposes Mr. Fetters and Ms. Martinez testifying as live witnesses because MTA has already presented their testimony by affidavit. Therefore, MTA has no right to unilaterally now call these individuals as live witnesses.

Honorable Paul G. Gardephe
October 26, 2014
Page 2

Thank you for your continuing courtesy and attention to this matter.

Respectfully,


Matthew A. Taylor

cc: Ira J. Lipton, Esq.
Adam P. Friedman, Esq.